

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THOMAS R. BUCHINGER,

Plaintiff,

v.

COUNTY OF SPOKANE, a Washington
corporation; SPOKANE COUNTY
SUPERIOR COURT; MARYANN C. MORENO
(Honorable Judge); VALERIE
JOLICOEUR (Honorable Commission);
MATTHEW DUDLEY (attorney); and
JASON NELSON (attorney)

Defendants.

NO. CV-08-0388-EFS

**ORDER DISMISSING COMPLAINT
AND ENTERING JUDGMENT**

On December 16, 2008, *pro se* Plaintiff Thomas R. Buchinger, who is proceeding in forma pauperis, filed a Complaint, asserting violations of his constitutional rights during a Washington divorce proceeding and child custody dispute. (Ct. Rec. 4.) Then, on February 23, 2009, Plaintiff filed a Notice of Petition and Verified Petition for Warrant of Removal, asking the Court to exercise supplemental jurisdiction over the state divorce and custody proceedings in order to ensure that his constitutional rights are protected. (Ct. Rec. 8.) Under 28 U.S.C. § 1915A, the Court is required to screen complaints filed by an individual proceeding in forma pauperis.¹ 28 U.S.C. § 1915A(a). After conducting

¹ Although §§ 1915 and 1915A reference "prisoners," they are not
ORDER ~ 1

1 the required § 1915A(a) screening, the Court, while recognizing
2 Plaintiff's frustration with the state court proceeding and his
3 attorney's assistance, concludes it must dismiss Plaintiff's lawsuit.

4 The Court lacks subject matter jurisdiction pursuant to the *Rooker-*
5 *Feldman* doctrine because Plaintiff's action is a *de facto* appeal of the
6 state court's parenting plan and the asserted constitutional claims are
7 inextricably intertwined with the state court decision. See *Watkins v.*
8 *Prouix*, 235 Fed. Appx. 678 (9th Cir. 2007) (citing to *Exxon Mobil Corp.*
9 *v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). Furthermore, to
10 the extent that subject matter jurisdiction is not barred by the *Rooker-*
11 *Feldman* doctrine, Plaintiff cannot pursue a § 1983 action against
12 private-attorney Defendants Dudley and Nelson because there are no facts
13 indicating that these individuals acted under color of state law. See
14 *Keane v. Artz*, 162 Fed. Appx. 748 (9th Cir. 2006); *Miranda v. Clark*
15 *County, Nevada*, 319 F.3d 465, 468 (9th Cir. 2003).

16 The Court is unsure what relief Plaintiff can seek in state court;
17 however, he may not seek relief from the parenting plan in federal court.
18 Plaintiff may contact a legal aid clinic, such as the Northwest Justice
19 Project (www.nwjustice.org; 1-888-201-1014), or access information online
20 at www.washingtonlawhelp.org.

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23 limited to prisoner suits. *United States v. Floyd*, 105 F.3d 274, 276
24 (6th Cir. 1997), *superseded on other grounds by Callihan v. Schenider*,
25 178 F.3d 800 (6th Cir. 1997). Therefore, a court has an obligation to
26 review a complaint filed by any person proceeding in forma pauperis. See
id.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The Complaint (Ct. Rec. 4) is dismissed for lack of subject
3 matter jurisdiction.

4 2. The construed Motion to Consolidate Cases (Notice of Petition
5 for Verified Petition for Warrant of Removal) is **DENIED.**

6 3. All other motions are **DENIED AS MOOT.**

7 4. Judgment is to be entered **WITHOUT PREJUDICE.**

8 5. This file shall be **CLOSED.**

9 6. The Clerk's Office shall provide the Spokane County Superior
10 Court with a copy of all filings in this action, indicating that the
11 filings are related to Spokane County Superior Court No. 08-3-01312-8.

12 **IT IS SO ORDERED.** The District Court Executive is directed to enter
13 this Order and provide a copy to Plaintiff and Spokane County Superior
14 Court.

15 **DATED** this 27th day of February 2009.

16
17 s/ Edward F. Shea
18 EDWARD F. SHEA
United States District Judge

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